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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CORRIGAN, JAIME W

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 10/21/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/945,230

Applicant(s)

DURR ET AL.

Examiner

Jaime W Corrigan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-8 and 13 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☒ Claim(s) 2-4,10-12 and 14 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to the Amendment filed on 04 August 2003.

Claim 5 is amended. Claims 2-4, 10-12, 14 are drawn to a non-elected invention.

Overall, claims 1-14 are pending in this application. The arguments with respect to the references applied in the first Office Action were deemed persuasive, however, a new Non-final rejection is set forth below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Clancy et al. (PN 4,440,121).

Regarding claim 1 Clancy discloses a rocker arm (See Figure 4 (23)) that is mountable on a cylinder head (See Figure 1 (12)) and is pivotable (See Abstract) about a pivot axis that extends transverse (See Figure 3) to the rocker arm; a control unit (See Figure 1 (24)) that acts upon a first end of said rocker arm (See Figure 1 (41)) for actuating a poppet valve (See Figure 1 (17)) having a valve stem (See Figure 4 (18)) upon which a second end (See Figure 4 (42), (47)) of said rocker arm acts; a support

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pin (See Figure 4 (26)) that is connectable to a cylinder head, wherein said rocker arm is held on said support pin between said first and second ends of said rocker arm (See Figure 4 (26), (41), (42)); a bolt head (See Figure 3 (27)) disposed on said support pin on a side of said rocker arm remote from a cylinder head, wherein said bolt head serves for adjusting (See Column 5 Lines 44-63) a bearing spacing between said rocker arm and a cylinder head for varying valve play; and a rotation preventing element (See Figure 3 (32)) that cooperates (See Column 4 Lines 29-68, Column 5 Lines 1-43) with said bolt head, wherein said rotation preventing element is provided with an arresting (See Figure 3 (63)) portion that engages said bolt head, and a support portion (See Figure 3 (64)) that conveys (See Column 4 Lines 29-68, Column 5 Lines 1-43) an adjustment moment away.

Regarding claim 5 Clancy discloses an interlocking (See Column 4 Lines 29-68, Column 5 Lines 1-43) connection is formed between said arresting portion (See Figure 3 (63)) of said rotation preventing element and an arresting surface (See Figures 3-4, (64)) of said bolt head.

Regarding claim 6 Clancy discloses said support pin is non-rotatably (See Column 3 Lines 8-21) fixed in said cylinder head, and wherein said bolt head is a nut that is threaded (See Column 4 Lines 29-68, Column 5 Lines 1-43) onto a shaft of said support pin.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-8, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clancy et al. (PN 4,440,121) in view of van Schaik et al. (PN 5,190,000).

Clancy discloses the invention as recited in claim 1 above, however, fails to disclose at least one wall forms said arresting portion; said rotation preventing element is effective between walls of said rocker arm; said ball socket is pressed against said bearing portion of said support pin by means of a spring.

Van Schaik teaches that it is conventional in the art to utilize said rocker arm (See Figure 4 (18)) is a shaped part having lateral longitudinal walls (See Figure 6 (18)), at least one of which forms said arresting portion (See Figure 5 (72), Figure 11, Column 4 Lines 28-34, Column 7 Lines 44-47, Column 9 Lines 28-36); said rotation preventing element is effective between said longitudinal walls of said rocker arm(See Figure 5 (72), Figure 11, Column 4 Lines 28-34, Column 7 Lines 44-47, Column 9 Lines 28-36); said rocker arm is provided with a ball socket (See Figure 11 (100)) in which a bearing portion of said support pin (See Figure 11 (100), (44)) engages, and wherein said ball socket is pressed against said bearing portion in a frictionally engaging manner by means of a spring (See Figure 11 (130)).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the rocker arm wall as an arresting portion taught by van Schaik in the Clancy device since it would reduce wear of mechanical parts.

Allowable Subject Matter

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Buuck et al. (PN 4,221,199), Fuji et al. (PN 4,762,099), Holzapfel et al. (PN 5,323,741), Kronich (PN 4,856,467), Golding et al. (PN 4,784,095), Caya et al. (PN 5,645,025), Thompson (PN 3,251,350) disclose similar valve drive mechanisms.

Any inquiry concerning this communication from the examiner should be directed to Examiner Jaime Corrigan whose telephone number is (703) 308-2639. The examiner can normally be reached on Monday - Friday from 8:30 a.m. – 6:00 p.m. 2nd Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reached on (703) 308-2623. The fax number for this group is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.


JC

Jaime Corrigan

Patent Examiner

October 16, 2003

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THOMAS DENION
SUPERVISORY PATENT EXAMINER
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